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**1998 Wis Eth Bd 16**  
LOCAL CODE - JURISDICTION

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The Ethics Board advises that §19.59, *Wisconsin Statutes*, does not empower a county to amend its ethics code to require officials and employees whose duties involve oversight, regulation, or reporting with respect to campaigns for county office to identify the campaigns in which the official or employee is involved, together with a description of the involvement. (November 27, 1998)

Facts

- ¶1. This opinion is based upon these understandings:
- a. You are a county corporation counsel.
  - b. A proposed ordinance amendment has been introduced in the board of supervisors to amend the county's ethics code.
  - c. The proposal would require an official or employee whose duties involve oversight, regulation, or reporting with respect to campaigns for county office to disclose any campaign in which the official or employee is involved, together with a description of the involvement.

Question

- ¶2. The Ethics Board understands your question to be:

Does §19.59, *Wisconsin Statutes*, empower a county to create the proposed provisions?

Discussion

- ¶3. The Ethics Board generally provides advice regarding the propriety of any matter to which an individual subject to the Ethics Code or lobbying law is or may become a party. Section 19.59(6), *Wisconsin Statutes*, also provides more broadly that a county corporation counsel may request the Board to

issue an opinion regarding the interpretation of that section.<sup>1</sup> Pursuant to this authority, the Ethics Board issues this opinion.

¶4. Section 19.59, *Wisconsin Statutes*, empowers a county to enact an ordinance establishing a code of ethics for county officials and employees.<sup>2</sup> An ordinance enacted under §19.59 may contain any of six kinds of specified provisions.<sup>3</sup> The two substantive provisions that the statute authorizes are:

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<sup>1</sup> Section 19.59(6), *Wisconsin Statutes*, provides:

**19.59(6)** Any county corporation counsel, attorney for a local governmental unit or statewide association of local governmental units may request the board to issue an opinion concerning the interpretation of this section. The board shall review such a request and may advise the person making the request.

<sup>2</sup> Section 19.59(1m), *Wisconsin Statutes*, provides:

**§19.59(1m)** In addition to the requirements of sub. (1), any county, city, village or town may enact an ordinance establishing a code of ethics for public officials and employes of the county or municipality and candidates for county or municipal elective offices.

<sup>3</sup> Section 19.59(3), *Wisconsin Statutes*, provides:

**§19.59(3)** An ordinance enacted under this section may contain any of the following provisions:

(a) A requirement for local public officials, other employes of the county or municipality and candidates for local public office to identify any of the economic interests specified in s. 19.44.

(b) A provision directing the county or municipal clerk or board of election commissioners to omit the name of any candidate from an election ballot who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(c) A provision directing the county or municipal treasurer to withhold the payment of salaries or expenses from any local public official or other employe of the county or municipality who fails to disclose his or her economic interests in accordance with the requirements of the ordinance.

(d) A provision vesting administration and civil enforcement of the ordinance with an ethics board appointed in a manner specified in the ordinance. A board created under this paragraph may issue subpoenas, administer oaths and investigate any violation of the ordinance on its own motion or upon complaint by any person. The ordinance may empower the board to issue opinions upon request. Records of the board's opinions, opinion requests and investigations of violations of the ordinance may be closed in whole or in part to public inspection if the ordinance so provides.

(e) Provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and other employes of the county or municipality or on the part of former local public officials or former employes of the county or municipality.

(1) a requirement for local public officials and employees to identify economic interests specified in §19.44, *Wisconsin Statutes*; and (2) provisions prescribing ethical standards of conduct and prohibiting conflicts of interest on the part of local public officials and employees.

¶5. The proposed county ordinance amendment does not require the identification of economic interests specified in §19.44.<sup>4</sup> Nor does the

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(f) A provision prescribing a forfeiture for violation of the ordinance in an amount not exceeding \$1,000 for each offense. A minimum forfeiture not exceeding \$100 for each offense may also be prescribed.

<sup>4</sup> Section 19.44(1), *Wisconsin Statutes*, provides:

**19.44(1)** Every statement of economic interests which is required to be filed under this subchapter shall be in the form prescribed by the board, and shall contain the following information:

(a) The identity of every organization with which the individual required to file is associated and the nature of his or her association with the organization, except that no identification need be made of:

1. Any organization which is described in section 170(c) of the internal revenue code.
2. Any organization which is organized and operated primarily to influence voting at an election including support for or opposition to an individual's present or future candidacy or to a present or future referendum.
3. Any nonprofit organization which is formed exclusively for social purposes and any nonprofit community service organization.
4. A trust.

(b) The identity of every organization or body politic in which the individual who is required to file or that individual's immediate family, severally or in the aggregate, owns, directly or indirectly, securities having a value of \$5,000 or more, the identity of such securities and their approximate value, except that no identification need be made of a security or issuer of a security when it is issued by any organization not doing business in this state or by any government or instrumentality or agency thereof, or an authority or public corporation created and regulated by an act of such government, other than the state of Wisconsin, its instrumentalities, agencies and political subdivisions, or authorities or public corporations created and regulated by an act of the legislature.

(c) The name of any creditor to whom the individual who is required to file or such individual's immediate family, severally or in the aggregate, owes \$5,000 or more and the approximate amount owed.

(d) The real property located in this state in which the individual who is required to file or such individual's immediate family holds an interest, other than the principal residence of the individual or his or her immediate family, and the nature of the interest held. An individual's interest in real property does not include a proportional share of interests in real property if the individual's proportional share is less than 10% of the outstanding shares or is less than an equity value of \$5,000.

(e) The identity of each payer from which the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her

proposed ordinance amendment prescribe ethical standards of conduct or prohibit conflicts of interest.<sup>5</sup> Rather, it simply requires disclosure of information about involvement in political campaigns. The regulations contained in the proposed ordinance amendment are not authorized by §19.59. Thus, the county, if it possesses authority to enact the proposed ordinance, must derive that authority from another source.<sup>6</sup>

### Advice

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immediate family is engaged, then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which only dividends or interest, anything of pecuniary value reported under s. 19.56 or reportable under s. 19.57, or political contributions reported under ch. 11 were received.

(f) If the individual who is required to file or a member of his or her immediate family received \$1,000 or more of his or her income for the preceding taxable year from a partnership, limited liability company, corporation electing to be taxed as a partnership under subchapter S of the internal revenue code or service corporation under s. 180.1901 to 180.1921 in which the individual or a member of his or her immediate family, severally or in the aggregate, has a 10% or greater interest, the identity of each payer from which the organization received \$1,000 or more of its income for its preceding taxable year, except that if the individual who is required to file identifies the general nature of the business in which he or she or his or her immediate family is engaged then no identification need be made of a decedent's estate or an individual, not acting as a representative of an organization, unless the individual is a lobbyist as defined in s. 13.62. In addition, no identification need be made of payers from which dividends or interest are received.

(g) The identity of each person from which the individual who is required to file received, directly or indirectly, any gift or gifts having an aggregate value of more than \$50 within the taxable year preceding the time of filing, except that the source of a gift need not be identified if the donation is permitted under s. 19.56(3)(e), (em) or (f) or if the donor is the donee's parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, niece, nephew, spouse, fiance or fiancée.

(h) Lodging, transportation, money or other things of pecuniary value reportable under s. 19.56(2).

<sup>5</sup> In its analysis of 1979 Senate Bill 235, the source of §19.59(3), the Legislative Reference Bureau stated that the standards and conduct that may be prescribed are to be similar in scope to those prescribed in the Ethics Code for state officials. The Ethics Code addresses issues of use of office for private financial benefit. The proposed ordinance amendment addresses what appear to be political concerns.

<sup>6</sup> We note that §19.59(4), *Wisconsin Statutes*, provides:

**§19.59(4)** This section may not be construed to limit the authority of a county, city, village or town to regulate the conduct of its officials and employees to the extent that it has authority to regulate that conduct under the constitution or other laws.

¶6. The Ethics Board advises that §19.59, *Wisconsin Statutes*, does not empower the county to amend its ethics code to require an official or employee whose duties involve oversight, regulation, or reporting with respect to campaigns for county office to identify the campaigns in which the official or employee is involved, together with a description of the involvement.

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